

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 09-219
Table of Allotments,	)	RM-11581
FM Broadcast Stations.	)	
(Brackettville, Texas)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: May 19, 2011**

**Released: May 20, 2011**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making*,<sup>1</sup> issued at the request of RF Services, Inc. ("Petitioner"), licensee of a new FM station at Rocksprings, Texas. Petitioner filed comments. No other comments or counterproposals were received in response to this *Notice*. For the reasons discussed below, we are deleting vacant Channel 234A at Brackettville.

2. **Background.** The *Notice* proposed the deletion of vacant Channel 234A at Brackettville, Texas. The proposed deletion at Brackettville would accommodate the new FM station's pending hybrid application, which requests the substitution of Channel 234C3 for Channel 235C3 at Rocksprings, Texas, reallocation of Channel 234C3 from Rocksprings, to Brackettville, Texas, and modification of the new FM station authorization.<sup>2</sup> As stated in the *Notice*, Channel 234A at Brackettville was allotted in MM Docket No. 95-152.<sup>3</sup> A filing window was opened for parties to file applications. The Commission received one application filed by LaNueva Cadena Radio Luz Inc., which was later dismissed.<sup>4</sup> The allotment has remained vacant for over thirteen years.

3. Petitioner filed Comments, requesting that the Commission delete vacant Channel 234A at Brackettville to accommodate its hybrid application, proposing the substitution of Channel 234C3 for Channel 235C3 at Rocksprings, Texas, reallocation of Channel 234C3 from Rocksprings to Brackettville, Texas, and modification of the new FM station authorization.

4. **Discussion.** The Commission's policy is not to delete an FM allotment where a *bona fide* expression of interest exists, absent a compelling reason to do so.<sup>5</sup> However, in *Enfield*,<sup>6</sup> the

<sup>1</sup> See *Brackettville, Texas*, Notice of Proposed Rule Making, 25 FCC Rcd 149 (MB 2010) ("Notice").

<sup>2</sup> See File No. BNP-20091019AFF.

<sup>3</sup> See *Brackettville, Texas*, Report and Order, 11 FCC Rcd 20539 (MMB 1996).

<sup>4</sup> See File No. BPH-19970221MB.

<sup>5</sup> See, e.g., *Montrose and Scranton Pennsylvania*, Memorandum Opinion and Order, 5 FCC Rcd 6305, 6306 (1990) (denying request to delete an allotment because interest had been expressed in retaining the allotment).

<sup>6</sup> See *Enfield, New Hampshire; Hartford and White River Junction, Vermont; and Keeseville and Morrisonville, New York*, Memorandum Opinion and Order, 26 FCC Rcd 798(2011) (prohibiting the reallocation, class down-grade or deletion of a vacant FM allotment, effective March 30, 2011) ("Enfield").

Commission recently modified its policy to discontinue the practice of considering rulemaking requests for the reallocation, class down-grade or deletion of a vacant FM allotment on a going-forward basis. The Commission will permit, however, parties to propose same-class channel substitutions for vacant FM allotments in order to accommodate proposals in technically related FM allotment and/or application filings because same-class channel substitutions do not disturb final Section 307(b) determinations on which the allotments were based. Additionally, we conclude that the Brackettville deletion is consistent with our rationale in *Grants and Church Rock, NM*,<sup>7</sup> because this vacant allotment has previously been subject to a filing window as a result of MM Docket No. 95-152.

5. Consistent with the former policy, the *Notice* solicited comments on whether or not to delete vacant Channel 234A at Brackettville. No expressions of interest were received. Accordingly, we are deleting vacant Channel 234A at Brackettville to accommodate Petitioner's hybrid application.

6. **Ordering clauses.** Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED That effective July 5, 2011, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the community listed below, to read as follows:

<u>Community</u>	<u>Channel No.</u>
Brackettville, Texas	-----

7. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A) .

8. IT IS FURTHER ORDERED, That the application, File No. BNPH-20091019AFF, IS GRANTED.

9. IT IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez  
Assistant Chief  
Audio Division  
Media Bureau

<sup>7</sup> Cf. *Grants and Church Rock, New Mexico*, Report and Order, 22 FCC Rcd 9462 (MB 2007), *recon. pending* (denying a counterproposal to downgrade an existing vacant allotment that had not been subject to an auction window and announcing that "[i]n virtually all cases, we will not downgrade a "drop-in" channel, especially if the vacant channel has not yet been subject to a window for the filing of applications for that channel").